

AMENDED IN ASSEMBLY APRIL 8, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1679

Introduced by Committee on Elections, Redistricting and Constitutional Amendments (Longville (Chair), Jerome Horton, Levine, and Nunez)

February 21, 2003

An act to amend Sections 13, ~~3103, and 3304~~ 302, 1303, 2187, 2194, 3103, 3304, 4101, 10405, 10411, 14105, 15641, 17502, 17503, 19005, and 21000 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1679, as amended, Committee on Elections, Redistricting and Constitutional Amendments. Elections: ~~write-in votes procedures.~~

(1) Existing law defines a "ballot card" and specifies the procedures that apply, and do not apply, to separate write-in ballots used in an election in which a punchcard voting system is used.

This bill would make a technical change by updating an applicable statutory cross reference in this provision.

(2) Existing law requires, generally, that a general election of special district governing board members be held on a specified date in November of each odd-numbered year, unless the principal act of the district provides that the election shall be held on another date set forth in specified code sections.

This bill would make a technical change by updating an applicable statutory cross reference in this provision.

(3) Existing law requires counties to send certain voter registration data to the Secretary of State in accordance with a specified schedule.

It requires the data to be sent not less than 10 days prior to the primary election or general election with respect to voters registered before the 28th day prior to the primary election or general election, respectively, among other things. Existing law, however, allows voters to register up to the 14th day prior to an election.

This bill would instead make a technical change by instead requiring the data to be sent not less than 7 days prior to the primary or general election with respect to voters registered before the 14th day prior to the primary or general election.

(4) Existing law requires that specified voter registration card information, including the voter's home address, be confidential and not be made routinely available to the public. Disclosure of the voter's home address may be made for limited purposes, including whenever a person's vote is challenged pursuant to specified provisions of law.

This bill would make a technical change by updating certain applicable statutory cross references in this provision.

(5) Existing law permits a voter to write the name of a candidate for any public office on the ballot of an election, with certain requirements.

~~*This bill would make a technical, nonsubstantive change to correct several erroneous cross references to those provisions.*~~

This bill would make technical changes by updating applicable statutory cross references in these provisions.

(6) Existing law requires the elections official, for a mail ballot election, to mail the combined sample ballot and mail ballot during a specified time period before the election, notwithstanding specified statutory provisions.

This bill would make a technical change by updating certain applicable statutory cross references in this provision.

(7) Existing law authorizes the Registrar-Recorder of the County of Los Angeles and the Registrar of Voters of Orange County, by county agreement, each to perform on behalf of the other duties relating to the conduct of an election of governing board members for any school district whose territory lies within both counties, where the election is consolidated with a primary, municipal, or general election under a specified provision of law.

This bill would make a technical change by updating an applicable statutory cross reference in this provision.

(8) Existing law requires, under specified circumstances, that where an election called by the legislative body of a city is consolidated with

an election held in the county in which the city is located, the canvass of the election be made in accordance with specified provisions of law.

This bill would make a technical change by updating a cross reference to an applicable article of law in this provision.

(9) Existing law requires the elections official, on election day, to furnish to precinct officers specified precinct supplies, including instruction cards for voters containing specified provisions of law. It also requires the elections official to supply a sufficient number of ink pens or pencils for the purpose of permitting voters to write in on the ballot the name of a candidate who has qualified to have his or her name counted under specified provisions of law.

(10) This bill would make technical changes by updating applicable statutory cross references in these provisions.

(11) Existing law requires that, where the district attorney petitions the court for a public recount of ballots tabulated by a voting system, a specified provision of law requiring the computer vote count program be returned to the county elections official within specified time periods shall apply unless the court orders the program held pending the conclusion of litigation challenging the outcome of the election.

This bill would make a technical change by updating an applicable statutory cross reference in this provision.

(12) Existing law requires the elections official, for a specified time period, to preserve certain records for certain federal elections, and for certain state or local elections, including an order appointing members of precinct boards and designating polling places as required by a specified provision of law.

This bill would make a technical change by updating an applicable statutory cross reference in these provisions.

(13) Existing law provides that in the case of electrical failure or other emergency affecting a voting system, the elections official may direct that the ballots be marked by pencil or ink, and may duplicate the voted ballot cards as provided in a specified provision of law and count the voted ballots pursuant to a specified article of law.

This bill would make technical changes by updating applicable cross references to a statutory provision and an article of law in this provision.

(14) Existing law requires the county elections official to make available to the Legislature any information and statistics that may be necessary for use in connection with the reapportionment of legislative districts, including, among other things, election returns for each



precinct, in a format specified by a provision of law that has been repealed.

This bill would make a corresponding technical change by deleting the requirement for the provision of election returns by precinct in the format specified by the now-repealed provision of law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13 of the Elections Code is amended to
2 read:

3 13. (a) No person shall be considered a legally qualified
4 candidate for any office or party nomination for a partisan office
5 under the laws of this state unless that person has filed a declaration
6 of candidacy or statement of write-in candidacy with the proper
7 official for the particular election or primary, or is entitled to have
8 his or her name placed on a general election ballot by reason of
9 having been nominated at a primary election, or having been
10 selected to fill a vacancy on the general election ballot as provided
11 in Section 8806, or having been selected as an independent
12 candidate pursuant to Section 8304.

13 (b) Nothing in this section shall be construed as preventing or
14 prohibiting any qualified voter of this state from casting a ballot
15 for any person by writing the name of that person on the ballot, or
16 from having that ballot counted or tabulated, nor shall any
17 provision of this section be construed as preventing or prohibiting
18 any person from standing or campaigning for any elective office
19 by means of a “write-in” campaign. However, nothing in this
20 section shall be construed as an exception to the requirements of
21 Section 15341.

22 (c) It is the intent of the Legislature, in enacting this section, to
23 enable the Federal Communications Commission to determine
24 who is a “legally qualified candidate” in this state for the purposes
25 of administering Section 315 of Title 47 of the United States Code.

26 SEC. 2. *Section 302 of the Elections Code is amended to read:*

27 302. “Ballot card” means a card or a number of cards upon
28 which are printed, or identified by reference to the ballot, the
29 names of candidates for nomination or election to one or more
30 offices or the ballot titles of one or more measures. The ballot card

shall also contain proper blank spaces to allow the voter to write in names not printed on the ballot unless a separate write-in ballot is used. The separate write-in ballot may be a paper ballot, a card, or the envelope used to enclose a ballot card. Determination of the format of a separate write-in ballot shall be within the discretion of the elections board. The separate write-in ballot shall provide a blank space followed by the word “office” and a second blank space followed by the word “name” for purposes of facilitating write-in votes for offices for which write-in votes may be cast, or may provide a space for writing in the name followed by a space for punching or slotting in order that the vote may be tabulated. All separate write-in ballots may, in the discretion of the elections board, have attached thereto two stubs that comply with Section 13261 regarding the stubs attached to a ballot card, except that the information required under subdivisions (c) through (g) of Section 13261 and instructions to voters on how to vote for persons whose names do not appear on the ballot may be printed on the write-in ballot and not upon a stub. Any serial numbers appearing on the write-in ballot stubs need not be identical to the serial numbers appearing on the stubs attached to the ballot card or cards handed to the voter. Sections 13002 through 13007 shall not apply to the preparation and composition of separate write-in ballots authorized by this section. Sections 14403 and ~~14406~~ 14404 shall not apply to separate write-in ballots used in an election in which a punchcard voting system is used.

SEC. 3. Section 1303 of the Elections Code is amended to read:

1303. (a) Unless the principal act of a district provides that an election shall be held on one of the other dates specified in Chapter 1 (commencing with Section 1000) of Division 1, or except as provided in ~~Section 1504~~ 1500, or except as provided in subdivision (b), a general district election to elect members of the governing board shall be held in each special district subject to Division 10 (commencing with Section 10000) on the first Tuesday following the first Monday in November of each odd-numbered year.

(b) Notwithstanding any other provision of law, a governing body of a special district may require, by resolution, that its elections of governing body members be held on the same day as the statewide general election. The resolution shall become

operative upon the approval of the board of supervisors pursuant to Section 10404.

SEC. 4. Section 2187 of the Elections Code is amended to read:

2187. (a) Each county elections official shall send to the Secretary of State, in a format described by the Secretary of State, a summary statement of the number of voters in the county. The statement shall show the total number of voters in the county, the number registered as affiliated with each qualified political party, the number registered in nonqualified parties, and the number who declined to state any party affiliation. The statement shall also show the number of voters, by political affiliations, in each city, supervisorial district, Assembly district, Senate district, and congressional district located in whole or in part within the county.

(b) The Secretary of State, on the basis of the statements sent by the county elections officials and within 30 days after receiving those statements, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each county, city, supervisorial district, Assembly district, Senate district, and congressional district in the state. A copy of this list shall be made available, upon request, to any elector in this state.

(c) Each county that uses data processing equipment to store the information set forth in the affidavit of registration shall send to the Secretary of State one copy of the magnetic tape file with the information requested by the Secretary of State. Each county that does not use data processing storage shall send to the Secretary of State one copy of the index setting forth that information.

(d) The summary statements and the magnetic tape file copy or the index shall be sent at the following times:

(1) On the 135th day before each presidential primary and before each direct primary, with respect to voters registered on the 154th day before the primary election.

(2) Not less than 50 days prior to the primary election, with respect to voters registered on the 60th day before the primary election.

(3) Not less than ~~10~~ 7 days prior to the primary election, with respect to voters registered before the ~~28th~~ 14th day prior to the primary election.

(4) Not less than 50 days prior to the general election, with respect to voters registered on the 60th day before the general election.

(5) Not less than ~~10~~ 7 days prior to the general election, with respect to voters registered before the ~~28th~~ 14th day prior to the general election.

(6) On or before March 1 of each odd-numbered year, with respect to voters registered as of February 10.

(e) The Secretary of State may adopt regulations prescribing the content and format of the magnetic tape file or index referred to in subdivision (c) and containing the registered voter information from the affidavits of registration.

(f) The Secretary of State may adopt regulations prescribing additional regular reporting times, except that the total number of reporting times in any one calendar year shall not exceed 12.

(g) The Secretary of State shall make the information from the magnetic tape files or the printed indexes available, under conditions prescribed by the Secretary of State, to any candidate for federal, state, or local office, to any committee for or against any proposed ballot measure, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly or political research, or governmental purposes as determined by the Secretary of State.

SEC. 5. Section 2194 of the Elections Code is amended to read:

2194. (a) The voter registration card information identified in subdivision (a) of Section 6254.4 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

(2) Shall be provided with respect to any voter, subject to the provisions of Section 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

(b) The home address of any voter shall be released whenever the person's vote is challenged pursuant to Sections ~~15003, 15005 to 15007~~ 15105 to 15108, inclusive, or 14240 to 14253, inclusive. The address shall be released only to the challenger, to elections officials, and to other persons as necessary to make, defend against, or adjudicate the challenge.

(c) A governmental entity, or officer or employee thereof, may not be held civilly liable as a result of disclosure of the information referred to in this section, unless by a showing of gross negligence or willfulness.

SEC. 6. Section 3103 of the Elections Code is amended to read:

3103. (a) Notwithstanding any other provision of the law, a special absentee voter who qualifies pursuant to this section may apply for a special absentee voter ballot. Any application made pursuant to this section that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If a special absentee voter submits an application containing a statement that provides that due to military or other contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as a special absentee voter, the elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 3100. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and a list of all measures that are to be submitted to the voters and on which the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The elections official shall receive and canvass special absentee voter ballots described in this section under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with this section, except that prior to election day,

special absentee voter ballots shall be secured separately in a sealed ballot box reserved for that purpose.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and the military or other contingency does not exist during the normal absentee voting period, that voter may make an application for an absentee ballot pursuant to Sections 3100 and 3101. If an application is made pursuant to this subdivision, the elections official shall reject the voted ballot previously cast and process the application in accordance with Chapter 1 (commencing with Section 3000).

(f) Notwithstanding any other provision of law, a special absentee voter who qualifies pursuant to this section may, by facsimile transmission, register to vote and apply for an absent voter's ballot. Upon request, the elections official shall send to the qualified special absentee voter either by mail or facsimile transmission the special absentee ballot or, if available, an absent's voter ballot pursuant to Chapter 1 (commencing with Section 3000).

~~SEC. 3.~~—

SEC. 7. Section 3304 of the Elections Code is amended to read:

3304. (a) A voter described in Section 3302 may apply for an absent voter ballot. Any application made pursuant to this section that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If the voter submits an application containing a statement that provides that due to contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as provided in this chapter, the elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 3307. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and for whom the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15341 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The elections official shall receive and canvass the absent voter ballots described in this section under the same procedure as other absent voter ballots, insofar as that procedure is not inconsistent with this section, except that prior to election day, the absent voter ballots described in this section shall be secured separately in a sealed ballot box reserved for that purpose.

SEC. 8. Section 4101 of the Elections Code is amended to read:

4101. Notwithstanding Sections ~~12111, 12117, 13300, 13300~~ and 13303, the elections official shall not commence to mail the combined sample ballot and mail ballot prior to the 29th day before the election and shall complete the mailing by the 10th day before the election.

SEC. 9. Section 10405 of the Elections Code is amended to read:

10405. Notwithstanding any other provision of law, the Registrar-Recorder of the County of Los Angeles and the Registrar of Voters of Orange County may, pursuant to agreement between those counties, perform, either on behalf of the other, any and all duties relating to the conducting of the election, the counting of votes, and any other election procedures to the extent that those duties are for the conduct of an election of governing board members for any school district whose territory lies within both the County of Los Angeles and Orange County, pursuant to the consolidation of that election with a primary, municipal, or general election under ~~Section 5000.5 of the Education Code Sections 1302 and 10404.5.~~

SEC. 10. Section 10411 of the Elections Code is amended to read:

10411. In case of the consolidation of any election called by the legislative body of a city, district or other political subdivision with an election held in the county or counties in which the city, district or other political subdivision is situated, the governing body of the city, district or other political subdivision may authorize the board of supervisors to canvass the returns of the election. If this authority is given:

1 (a) The election shall be held in all respects as if there were only
2 one election.

3 (b) Only one form of ballot shall be used.

4 (c) The returns of the election need not be canvassed by the
5 legislative body of the authorizing city, district or other political
6 subdivision.

7 If such authority is given to the board of supervisors, the canvass
8 shall be made in accordance with Article 1 (~~commencing with~~
9 ~~Section 15050~~) of Chapter 2 5 (*commencing with Section 15270*)
10 of Chapter 3 of Division 15.

11 *SEC. 11. Section 14105 of the Elections Code is amended to*
12 *read:*

13 14105. The elections official shall furnish to the precinct
14 officers all of the following:

15 (a) Printed copies of the indexes.

16 (b) Necessary printed blanks for the roster, tally sheets, lists of
17 voters, declarations, and returns.

18 (c) Envelopes in which to enclose returns.

19 (d) Not less than six nor more than 12 instruction cards to each
20 precinct for the guidance of voters in obtaining and marking their
21 ballots. On each card shall be printed necessary instructions and
22 the provisions of Sections 14225, 14279, 14280, 14287, 14291,
23 14295, ~~15051, 15054, 15055, 15059, 15060, 15061, 15271,~~
24 ~~15272, 15273, 15276, 15277, 15278,~~ 18370, 18380, 18403,
25 18563, and 18569.

26 (e) A digest of the election laws with any further instructions
27 the county elections official may desire to make.

28 (f) An American flag of sufficient size to adequately assist the
29 voter in identifying the polling place. The flag is to be erected at
30 or near the polling place on election day.

31 (g) A ballot container, properly marked on the outside
32 indicating its contents.

33 (h) When it is necessary to supply additional ballot containers,
34 these additional containers shall also be marked on the outside,
35 indicating their contents.

36 (i) Sufficient ink pads and stamps for each booth. The stamps
37 shall be one solid piece and shall be made so that a cross (+) may
38 be made with either end. If ballots are to be counted by vote
39 tabulating equipment, an adequate supply of other approved

1 voting devices shall be furnished. All voting stamps or voting
2 devices shall be maintained in good usable condition.

3 (j) When a candidate or candidates have qualified to have his
4 or her or their names counted pursuant to ~~Chapter 7 (commencing~~
5 ~~with Section 15350)~~ *Article 3 (commencing with Section 15340)*
6 of Chapter 4 of Division 15, a sufficient number of ink pens or
7 pencils in the voting booths for the purpose of writing in on the
8 ballot the name of the candidate or candidates.

9 (k) A sufficient number of cards to each polling place
10 containing the telephone number of the office to which a voter may
11 call to obtain information about his or her precinct location. The
12 card shall state that the voter may call collect during polling hours.

13 (l) An identifying badge or insignia for each member of the
14 precinct board. The member shall print his or her name and the
15 precinct number thereon and shall wear the badge or insignia at all
16 times in the performance of duties, so as to be readily identified as
17 a member of the precinct board by all persons entering the polling
18 place.

19 (m) Facsimile copies of the ballot containing ballot measures
20 and ballot instructions printed in Spanish or other languages as
21 provided in Section 14201.

22 (n) Sufficient copies of the notices to be posted on the indexes
23 used at the polls. The notice shall read as follows: "This index shall
24 not be marked in any manner except by a member of the precinct
25 board acting pursuant to Section 14297 of the Elections Code. Any
26 person who removes, tears, marks, or otherwise defaces this index
27 with the intent to falsify or prevent others from readily
28 ascertaining the name, address, or political affiliation of any voter,
29 or the fact that a voter has or has not voted, is guilty of a
30 misdemeanor."

31 (o) A roster of voters for each precinct in the form prescribed
32 in Section 14107.

33 (p) In addition, the elections official may, with the approval of
34 the board of supervisors, furnish the original books of affidavits of
35 registration or other material necessary to verify signatures to the
36 precinct officers.

37 This section shall become operative on January 1, 1990.

38 SEC. 12. *Section 15641 of the Elections Code is amended to*
39 *read:*

15641. Section ~~17500~~ 15001 shall apply unless a court orders the program held pending the conclusion of litigation challenging the outcome of an election. If court action or an official recount is initiated while the program is on deposit, the Secretary of State shall make the program available to the court or the elections official in whose jurisdiction the court action or recount takes place, upon written request.

SEC. 13. Section 17502 of the Elections Code is amended to read:

17502. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The elections official shall preserve the following records reflecting the appointment of precinct officials until 22 months from the date of any election.

(1) Precinct officers' declaration of intention required by Section 12321.

(2) Precinct board member applications specified in Section 12300.

(3) Order appointing members of the several precinct boards and designating the polling places specified in Section ~~12326~~ 12286.

(4) Nominations for appointment to the precinct board by the county central committee of each qualified political party specified in Section 12306.

(5) Written orders appointing precinct board members or designating the polling place for the precinct pursuant to Section 12327.

SEC. 14. Section 17503 of the Elections Code is amended to read:

17503. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17502. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The elections official shall preserve the following records reflecting the appointment of precinct officials until six months from the date of an election.

(1) Precinct officers' declaration of intention required by Section 12321.

(2) Precinct board member applications specified in Section 12300.

(3) Order appointing members of the several precinct boards and designating the polling places specified in Section ~~12326~~ 12286.

(4) Nominations for appointment to the precinct board by the county central committee of each qualified political party specified in Section 12306.

(5) Written orders appointing precinct board members or designating the polling place for the precinct pursuant to Section 12327.

SEC. 15. Section 19005 of the Elections Code is amended to read:

19005. In the case of electrical failure or other emergency, the official conducting the election may direct that ballots may be marked by pencil or ink. In that event, the elections official may duplicate the voted ballot cards as provided in Section ~~15270~~ 15210 and count the duplicate ballots by automatic tabulating device, or may count the voted ballots pursuant to Article ~~4~~ (commencing with Section 15050) of Chapter 2 5 (commencing with Section 15270) of Chapter 3 of Division 15.

SEC. 16. Section 21000 of the Elections Code is amended to read:

21000. The county elections official in each county shall compile and make available to the Legislature or any appropriate committee of the Legislature any information and statistics that may be necessary for use in connection with the reapportionment of legislative districts, including, but not limited to, precinct maps indicating the boundaries of municipalities, school districts, judicial districts, Assembly districts, senatorial districts and congressional districts, lists showing the election returns for each precinct, ~~and election returns for each precinct reflecting the vote total for all ballots cast, including both absentee ballots and ballots east at polling places, compiled pursuant to subdivision (a) of Section 15324~~ in the county at each statewide election. If the county elections official stores the information and statistics in data-processing files, he or she shall make the files available, along with whatever documentation shall be necessary in order to allow

1 the use of the files by the appropriate committee of the Legislature
2 and shall retain these files until the next reapportionment has been
3 completed.

4 Each precinct shall be identified according to the census tract or
5 enumeration district in which it is located. When a precinct is
6 divided among two or more census tracts or enumeration districts,
7 the county elections official shall include an estimate of the
8 proportion of the precinct's registered voters in each census tract
9 or enumeration district. If the United States Bureau of the Census
10 divides or alters any census tract or enumeration district between
11 the time of an election and the census upon which the
12 reapportionment is based, the county elections official shall
13 provide whatever corrections or additional information may be
14 necessary to reflect those changes.

